IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO: 18395 of 2004**

Between:

Ideal College of Arts and Science Kakinada, Rep. by its Correspondent
Smt. P. Chiranjeevini Kumari W/o. Late P.S. Sarma aged 70 Years,
R/o. Kakinada.

**..... PETITIONER**

AND

1 Government of Andhra Pradesh(Higher Education) Department, Rep.

by its Principal Secretary to Government, Hyderabad.
2 Sri D.S. Chalapathi Rao, S/o. D.V. Ranga Rao,
10-2-58/2, Pamuvari Street, Ramaraopet, Kakinada.
3 Regional Joint Director of Collegeate Education and
Competent Authority, Rajahmundry.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records pertaining to G.O.Rt.No.679 dt.21-9-04 issued by the first respondent and quash the same, by issuance of a Writ, order or Direction more especially one in the nature of Certiorari and quash the same and consequently direct the first respondent to approve the order of termination passed by the petitioner management dt.18-7-2002 of services of the second respondent.

**Counsel for the Petitioner: MR.P.SURESH**

**Counsel for the Respondents1 & 3: GP FOR HIGHER EDUCATION**

**The Court at the stage of admission made the following:**

**HONOURABLE Dr. JUSTICE G.YETHIRAJULU**

WRIT PETITION NO.18395 OF 2004

**ORDER:**

The petitioner is a Degree College at Kakinada. The Second respondent worked as a Lecturer in Botany in the petitioner college. Certain complaints were received by the petitioner against the second respondent from the non-teaching staff of the college. The petitioner therefore, issued a charge-sheet to the second respondent on three charges namely:

1. ill-treated the non-teaching staff in a humiliating and discourteous manner causing

   mental agony;

2. mis-behaved with Smt.M.Sakuntala Devi, Record Assistant of the petitioner-college inviting her for sexual act amounting to moral turpitude;

3. indulged in in-subordination and defiance of orders in a threatening manner towards the principal through the letter dated 20-12-2000.

**2.** The above incidents were also brought to the notice of the third respondent by the staff of the college. The third respondent conducted an enquiry on 28.06.2001 and found the allegations against the second respondent true. On 13.09.2001 the Director of college education requested the petitioner to initiate disciplinary proceedings against the second respondent. The petitioner appointed Sri G.V.Subbarao, Retired District Judge, as an enquiry officer. The enquiry officer after conducting an enquiry submitted a report holding that the charges are proved. The governing body of the petitioner college on 24.03.2002 decided to terminate the services of the second respondent. A final show cause notice was issued on 4.7.2002. On 15.7.2002 the second respondent submitted a letter in response to the show cause notice expressing regrets. Since there

was no proper explanation, the final order was passed terminating the services of the petitioner through the proceedings dt.18.7.2002. The second respondent being aggrieved by the order of termination preferred an appeal before the third respondent. The third respondent suspended the operation of the order on 30.10.2002. The petitioner being aggrieved by the interim order passed by the third respondent filed W.P.No.22321 of 2002. The High Court while disposing of the writ petition on 31.12.2002 directed the third respondent to give disposal to the appeal within eight weeks. The third respondent disposed of the appeal on 22.3.2002 setting aside the order of termination. The petitioner being aggrieved by the order of the third respondent preferred Appeal No.3129 of 2003 before the first respondent and the first respondent while disposing of the appeal issued an order covered by G.O.Rt.No.679 dated 21.9.2004 awarding the punishment of stoppage of two annual increments to the second respondent without cumulative effect. The petitioner being aggrieved by the order of the first respondent filed this writ petition seeking to quash G.O.Rt.No.679 dtd.21.9.2004 and to direct the first respondent to approve the order of termination passed by the management of the petitioner college on 18.7.2002 against the second respondent.

**3.** The second respondent resisted the application by contending that the punishment of termination of service is disproportionate to the gravity of the misconduct, therefore, the first respondent was right in passing the impugned order and it is not liable to be disturbed. The second respondent contended that the order of termination was issued by the management of the petitioner on flimsy grounds.

**4.** The point for consideration is:

> "*Whether the order of the first respondent in G.O.Rt.No.679 dtd.21.9.2004 is liable to be set aside by restoring the order of termination passed by the management of the petitioner on 18.07.2002?*

**5.** The second respondent worked in the petitioner college for a considerable period. A charge-sheet was issued to the second-respondent framing three charges on receiving instructions from the director of College education. On the

basis of an enquiry made by the third respondent regular departmental enquiry was conducted against the second respondent through a retired District Judge and the legality of the enquiry was not questioned by the second respondent. The final order was passed by the management of the petitioner imposing the punishment of termination from service. When the second respondent preferred an appeal, the punishment was set aside. When the petitioner preferred an appeal to the first respondent, an order was passed imposing the punishment of stoppage of two increments without cumulative effect.

**6.** The first allegation against the petitioner is that he was ill-treating the non-teaching staff of the college on some pretext or other by humiliating them and addressing them in a discourteous manner. The second allegation is that he mis-behaved with Smt.M.Sakuntala Devi, a Record Assistant of the department to which he was the head, by embracing her and asking her to come for sexual intercourse. The third allegation is that he wrote a letter to the principal in a threatening manner indulging in in-subordination. The enquiry officer, after taking into consideration the evidence adduced by the petitioner, came to a conclusion that the charges are proved against the second respondent.

**7.** The appellate authority (third respondent), after examining the entire record, came to a conclusion that there were no valid reasons given by the Secretary and Correspondent of the petitioner-College in imposing the punishment of termination of service, therefore, the order of the petitioner-college was set aside and directed the re-instatement of the second respondent. The first respondent also after examining the record passed the impugned order in the appeal preferred by the petitioner imposing the punishment of stoppage of two increments without cumulative effect.

**8.** Whenever there is failure on the part of the disciplinary authority in following the procedure prescribed under the rules and whenever an order is passed by an authority who is not competent to pass such order and whenever the punishment imposed on the delinquent is unduly disproportionate to the gravity of the mis-conduct, the writ Court would interfere in the matter and

appropriate direction would be given.

**9.** But in the case on hand, none of the above three factors came to light. There is no grievance from the second respondent on the impugned order. The management of the petitioner-college is aggrieved by the modification of its order of termination.

**10.** Having regard to the totality of the circumstances, I do not find any extenuating circumstances to interfere with the order of the first respondent and the punishment imposed by the first respondent through G.O.Rt.No.679 dt.21.9.2004 is not liable to be interfered. There are no merits in the writ petition.

**11.** The Writ Petition is accordingly dismissed. No order as to costs.

23rd November, 2004 ----------

SKM Dr. G.YETHIRAJULU, J

TO

1 The Principal Secretary to Government, Government of Andhra

Pradesh(Higher Education) Department, Hyderabad.

2 The Regional Joint Director of Collegeate Education and
Competent Authority, Rajahmundry.

3 Two C.Cs. to G.P. for Higher Education, High Court Buildings,

High Court of A.P., Hyderabad. (OUT)

4 Two C.D. Copies.